



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No: 230216-0042]

RIN 0648-BL99

Fisheries of the Northeastern United States; Framework Adjustment 36 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement Framework Adjustment 36 to the Atlantic Sea Scallop Fishery Management Plan that establishes scallop specifications and other management measures for fishing years 2023 and 2024. Framework 36 would implement measures to protect small scallops to support rotational access area trips to the fleet in future years. This action would also revise regulatory text that is unnecessary, outdated, or unclear. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

DATES: Comments must be received by *[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]*.

ADDRESSES: The New England Fishery Management Council has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework Adjustment 36 and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of Framework 36 to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and an Initial Regulatory Flexibility

Analysis (IRFA). Copies of the draft of Framework 36, the draft EA, the IRFA, and information on the economic impacts of this proposed rulemaking are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/scallop-framework-36>.

You may submit comments on this document, identified by NOAA-NMFS-2022-0142, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0142 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Policy Analyst, 978-282-8456.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery’s management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop Fishery Management Plan (FMP), established in 1982, includes a

number of amendments and framework adjustments that have revised and refined the fishery's management. The New England Fishery Management Council sets scallop fishery catch limits and other management measures through specification or framework adjustments that occur annually or biennially. The Council adopted Framework 36 to the Atlantic Sea Scallop FMP on December 7, 2022. The Council submitted a draft of the framework, including a draft EA, for NMFS review and approval on December 20, 2022. This action proposes to approve and implement Framework 36, which establishes scallop specifications and other measures for fishing years 2023 and 2024, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2023, and default specifications for fishing year 2024, as recommended by the Council.

NMFS proposes to implement these Framework 36 measures as close as possible to the April 1 start of fishing year 2023. If NMFS implements these measures after the start of the fishing year, the default allocation measures currently established for fishing year 2023 will go into place on April 1, 2023. The Council reviewed the proposed regulations in this rule as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2023 Fishing Year, and Default Specifications for Fishing Year 2024

The Council set the proposed OFL based on a fishing mortality rate (F) of 0.61, equivalent to the F threshold updated through the Northeast Fisheries Science Center's most recent scallop benchmark stock assessment that was completed in September 2020. The proposed ABC and the equivalent total ACL for each fishing year are based on an F

of 0.45, which is the F associated with a 25-percent probability of exceeding the OFL. The Council's Scientific and Statistical Committee (SSC) recommended scallop fishery ABCs of 43.7 million lb (19,828 mt) for 2023 and 44.5 million lb (20,206 mt) for the 2024 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust the ABC for 2024 when the Council develops the next framework adjustment.

Table 1 outlines the proposed scallop fishery catch limits. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in Amendment 11 to the FMP (72 FR 20090, April 14, 2008): 94.5 percent is allocated to the limited access scallop fleet (*i.e.*, the larger "trip boat" fleet); 5 percent is allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (*i.e.*, the smaller "day boat" fleet); and the remaining 0.5 percent is allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 to the FMP (76 FR 43746, July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC ACLs, meaning that the LAGC ACL is equal to the LAGC ACT. For the limited access fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated F s applied to the ABC/ACL, now results in an F of 0.39. Amendment 21 to the FMP (87 FR 1688, January 12, 2022) modified the ACL flowchart to account for the scallop biomass in the Northern Gulf of Maine (NGOM) as part of the legal limits in the fishery by adding biomass from the area into calculations of the OFL and ABC. This action moved the accounting of the NGOM ACL from only within the OFL into the OFL and ABC/ACL for the entire fishery. In addition, Amendment 21 created the NGOM Set-Aside to

support a directed LAGC fishery (including NGOM and LAGC IFQ permitted vessels) in the NGOM Management Area.

Table 1--Scallop Catch Limits (mt) for Fishing Years 2023 and 2024 for the Limited Access and LAGC IFQ Fleets

Catch limits	2023 (mt)	2024 (mt)¹
OFL	27,504	29,151
ABC/ACL (discards removed)	19,828	20,206
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	198	202
NGOM Set-Aside	175	130
ACL for fishery	18,853	19,403
Limited Access ACL	17,816	18,335
LAGC Total ACL	1,037	1,067
LAGC IFQ ACL (5 percent of ACL)	943	970
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	94	97
Limited Access ACT	15,441	15,891
APL (after set-asides removed)	10,368	(1)
Limited Access APL (94.5 percent of APL)	9,798	(1)
Total IFQ Annual Allocation (5.5 percent of APL) ²	570	428
LAGC IFQ Annual Allocation (5 percent of APL) ²	518	389
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	52	39

¹ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

² As a precautionary measure, the 2024 IFQ and annual allocations are set at 75 percent of the 2023 IFQ Annual Allocations.

This action would deduct 1.275 million lb (578 mt) of scallops annually for 2023 and 2024 from the ABC for use as the Scallop RSA to fund scallop research.

Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.275-million-lb (578-mt) allocation, NMFS has already allocated 47,057 lb (21,345 kg) to previously funded multi-year projects as part of the 2022 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2023 RSA awards and will be selecting projects for funding in the near future.

This action would also deduct 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 198 mt for 2023 and 202 mt for 2024. The Council may adjust the 2024 observer set-aside when it develops specific, non-default measures for 2024.

Open Area Days-at-Sea (DAS) Allocations

This action would implement vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2023 and 2024 (Table 2). Proposed 2023 DAS allocations are the same as those allocated to the limited access fleet in 2022. Framework 36 would set 2024 DAS allocations at 75 percent of fishing year 2023 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2024 specifications action is delayed past the start of the 2024 fishing year. The proposed allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2022 sub-ACL.

Table 2--Scallop Open Area DAS Allocations for 2023 and 2024

Permit Category		2023	2024 (Default)
Full-Time		24.00	18.00
Part-Time		9.60	7.20
Occasional		2.00	1.50

If NMFS implements these Framework 36 measures after the April 1 start of fishing year 2023, default DAS allocations, which were established in Framework Adjustment 34 to the FMP (87 FR 18277, March 30, 2022), would go into place on April 1, 2023. Full-time vessels would receive 18 DAS, part-time vessels would receive 7.20 DAS, and occasional vessels would receive 1.50 DAS. The allocations would later increase in accordance with Framework 36 when Framework 36 goes into effect. NMFS will notify all limited access permit holders of both default and Framework 36 DAS

allocations so that vessel owners know what mid-year adjustments would occur should Framework 36 be approved and implemented after April 1, 2023.

Changes to Fishing Year 2023 Sea Scallop Access Area Boundaries

For fishing year 2023 and the start of 2024, Framework 36 would change the boundaries of Area II (Table 3) to include all of both areas formerly known as Closed Area II and Closed Area II-East. This area was expanded to better support rotational access in fishing year 2023.

Table 3—Area II Access Area

Point	N latitude	W longitude	Note
AII1	41°30'	67°20'	
AII2	41°30'	(1)	(2)
AII3	40°40'	(3)	(2)
AII4	40°40'	67°20'	
AII1	41°30'	67°20'	

¹ The intersection of 41°30' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N lat., 66°34.73' W long.

² From Point AII2 connected to Point AII3 along the U.S.-Canada Maritime Boundary.

³ The intersection of 40°40' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N lat. and 65°52.61' W long.

Fishing Year 2023 Sea Scallop Closed Area Boundaries

Framework 36 would keep the New York Bight and Nantucket Lightship-West Scallop Rotational Areas closed to scallop fishing to optimize growth of the several scallop year classes within the closure area and to support scallop fishing in years following the 2023 fishing year.

This action would also close the Elephant Trunk (Table 4) and the Area I (Table 5) Scallop Rotational Areas. The Council is proposing to close these areas to support the growth of small scallops in the absence of fishing pressure.

Table 4—Elephant Trunk Scallop Closed Area

Point	N latitude	W longitude
ET1	38°50'	74°20'
ET2	38°50'	73°30'
ET3	38°10'	73°30'

Point	N latitude	W longitude
ET4	38°10'	74°20'
ET1	38°50'	74°20'

Table 5--Area I Scallop Closed Area

Point	N latitude	W longitude
AIA1	41°30'	68°30'
AIA2	40°58'	68°30'
AIA3	40°54.95'	68°53.37'
AIA4	41°30'	69°23'
AIA1	41°30'	68°30'

Nantucket Lightship-South-Deep and Nantucket Lightship-Triangle Scallop Rotational Areas Reverting to Open Area

Framework 36 would revert the Nantucket Lightship-South-Deep and Nantucket Lightship-Triangle Scallop Rotational Areas to part of the open area. These areas were previously managed as part of the area rotation program; however, there is not enough biomass to support rotational access on an equitable basis to the entire Limited Access fleet nor was there enough recruitment seen in the annual survey to support keeping these areas as part of the program. Based on this information, they no longer meet the criteria for either closure or controlled access as defined in 50 CFR 648.55(a)(6). These areas would become part of the open area and could be fished as part of the DAS program or on LAGC IFQ open area trips. Because fishing year 2022 carryover access area fishing will continue in the Nantucket Lightship-South-Deep until May 30, 2023, both areas would not revert to open area until May 31, 2023.

Nantucket Lightship-North Scallop Rotational Area (NLS-N) to Support LAGC IFQ Access and Closed for the Limited Access Fleet for 90 Days Before Reverting to Open Area.

Framework 36 would allocate LAGC IFQ access area trips that could be taken in either the NLS-N (Table 6) or Area II (Table 3) for the 2023 fishing year. Once the

Regional Administrator has determined that the total number of LAGC IFQ access area trips have been or are projected to be taken, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for LAGC IFQ vessels.

Limited access vessels would be prohibited from fishing in the area during the first 90 days of fishing year 2023 (*i.e.*, through June 29, 2023). On June 30, 2023, the NLS-N would revert to part of the open area for the limited access fleet. This area could then be fished by the limited access fleet on DAS.

Table 6—Nantucket Lightship-North Scallop Rotational Area

Point	N latitude	W longitude
NLSN1	40°50'	69°30'
NLSN2	40°50'	69°00'
NLSN3	40°28'	69°00'
NLSN4	40°28'	69°30'
NLSN1	40°50'	69°30'

Full-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 7 provides the proposed limited access full-time allocations for all of the access areas for the 2023 fishing year and the first 60 days of the 2024 fishing year. These allocations could be landed in as many trips as needed, so long as vessels do not exceed the possession limit (also in Table 7) on any one trip.

Table 7--Proposed Scallop Access Area Full-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2023 and 2024

Rotational access area	Scallop per trip possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	12,000 lb (5,443 kg)	24,000 lb (10,886 kg)	0 lb (0 kg)
Total		24,000 lb (10,886 kg)	0 lb (0 kg)

Part-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 8 provides the proposed limited access part-time allocations for all of the access areas for the 2023 fishing year and the first 60 days of the 2024 fishing year. These allocations could be landed in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 8) on any one trip.

Table 8--Proposed Scallop Access Area Part-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2023 and 2024

Rotational access area	Scallop per trip possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	9,600 lb (4,082 kg)	9,600 lb (4,354 kg)	0 lb (0 kg).
Total		9,600 lb (4,354 kg)	0 lb (0 kg).

LAGC Measures

1. ACL and IFQ Allocation for LAGC Vessels with IFQ Permits. For LAGC vessels with IFQ permits, this action would implement a 943-mt ACL for 2023 and a 970-mt default ACL for 2024 (see Table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by the LAGC IFQ fleets. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. Framework 28 to the FMP (82 FR 15155, March 27, 2017) changed the way the LAGC IFQ allocations are set from a direct percentage of the ACL to a percentage of the APL. The purpose of this change was to help ensure that the allocation of potential catch between the fleets is more consistent with the concept of spatial management by allocating catch to the LAGC IFQ fleet based on harvestable scallops instead of total biomass. Since Framework 28 was implemented in 2017, the LAGC IFQ allocation has been equal to 5.5 percent of the projected landings (5 percent for LAGC IFQ vessels and 0.5 percent for LAGC IFQ vessels that also have a limited access scallop permit). The annual allocation to the LAGC IFQ-only fleet for fishing years 2023 and 2024 based on APL would be 518 mt for 2023 and 389 mt for 2024 (see Table 1). Each vessel's IFQ would be calculated from these allocations based on APL.

If NMFS implements these Framework 36 measures after the April 1 start of the 2023 fishing year, the default 2023 IFQ allocations would go into place automatically on April 1, 2023. Because this action would implement IFQ allocations that are less than the default allocations, NMFS will notify IFQ permit holders of both default 2023 and Framework 36 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 36 be approved after the April 1, 2023, start of fishing year 2023.

2. ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.

For limited access scallop vessels with IFQ permits, this action would implement a 94-mt ACL for 2023 and a default 97-mt ACL for 2024 (see Table 1). These sub-ACLs have no associated regulatory or management requirements, but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits would be 52 mt for 2023 and 39 mt for 2024 (see Table 1). Each vessel's IFQ would be calculated from these allocations based on APL. Because this action would implement IFQ allocations that are less than the default allocations, NMFS will notify IFQ permit holders of both default 2023 and Framework 36 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 36 be approved after the April 1, 2023, start of fishing year 2023.

3. LAGC IFQ Trip Allocations for Scallop Access Areas. Framework 36 would allocate LAGC IFQ vessels a fleet-wide number of trips for fishing year 2023 and no default trips for fishing year 2024 (see Table 9). The scallop catch associated with the total number of trips for all areas combined (571 trips) for fishing year 2023 is equivalent to the 5.5 percent of total projected catch from access areas.

Once the Regional Administrator has determined that the total number of LAGC IFQ access area trips have been or are projected to be taken, the Nantucket Lightship

North Scallop Rotational Area shall become part of the open area for LAGC IFQ vessels, but Area II would then be closed to LAGC IFQ fishing.

Table 9--Fishing Years 2023 and 2024 LAGC IFQ Trip Allocations for Scallop Access Areas

Scallop access area	2023	2024 ¹
Nantucket Lightship-North/Area II	571	0
Total	571	0

¹ The LAGC IFQ access area trip allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

4. *NGOM Scallop Fishery Landing Limits.* This action proposes total allowable landings (TAL) in the NGOM of 434,311 lb (197,000 kg) for fishing year 2023. This action would deduct 25,000 lb (11,340 kg) of scallops annually for 2023 and 2024 from the NGOM TAL to increase the overall Scallop RSA to fund scallop research. In addition, this action would deduct 1 percent of the NGOM ABC from the NGOM TAL for fishing years 2023 and 2024 to support the industry-funded observer program to help defray the cost to scallop vessels that carry an observer (Table 10).

Amendment 21 developed landing limits for all permit categories in the NGOM and established an 800,000-lb (362,874-kg) NGOM Set-Aside trigger for the NGOM directed fishery, with a sharing agreement for access by all permit categories for allocation above the trigger. Allocation above the trigger (*i.e.*, the NGOM APL) will be split 5 percent for the NGOM fleet and 95 percent for limited access and LAGC IFQ fleets. Framework 36 would set an NGOM Set-Aside of 380,855 lb (172,753 kg) for fishing year 2023 and a default NGOM Set-Aside of 285,641 lb (211,365 kg) for fishing year 2024. Because the NGOM Set-Aside for fishing years 2023 and 2024 is below the 800,000-lb (362,874-kg) trigger, Framework 36 would not allocate any landings to the NGOM APL. Table 10 describes the breakdown of the NGOM TAL for the 2023 and 2024 (default) fishing years.

Table 10--NGOM Scallop Fishery Landing Limits for Fishing Year 2023 and 2024

Landings Limits	2023	2024 ⁽¹⁾
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NGOM TAL	434,311 lb	197,000 kg	318,573 lb	114,502 kg ⁽³⁾
1 percent NGOM ABC for Observers	10,538 lb	4,780 kg	7,932 lb	3,598 kg ⁽³⁾
RSA Contribution	25,000 lb	11,340 kg	25,000 lb	11,340 kg
NGOM Set-Aside	380,855 lb	172,753 kg ⁽²⁾	285,641 lb	129,565 kg
NGOM APL	0 lb	0 kg	0 lb	0 kg

¹ The landings limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

² For fishing year 2023 the NGOM Set-Aside has been reduced by 17,918 lb (8,127 kg) to account for a limited access general category NGOM total allowable catch overage in 2021.

³ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

5. Scallop Incidental Landings Target TAL. This action proposes a 50,000-lb (22,680-kg) scallop incidental landings target TAL for fishing years 2023 and 2024 to account for mortality from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

RSA Harvest Restrictions

This action allows vessels participating in RSA projects to harvest RSA compensation from the open area only. All vessels are prohibited from harvesting RSA compensation pounds in all other access areas. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Finally, Framework 36 prohibits the harvest of RSA from any access areas under default 2024 measures. At the start of 2024, RSA compensation may only be harvested from open areas. The Council will re-evaluate this default prohibition measure in the action that would set final 2024 specifications.

Regulatory Corrections Under Regional Administrator Authority

This proposed rule includes three revisions to address regulatory text that is unnecessary, outdated, or unclear. In addition, this proposed rule includes changes to

regulatory text throughout that would change the in-shell possession limit of scallops from a bushel conversion (1 bushel of in-shell scallops = 8 lb (3.6 kg) of scallop meats) to a weight conversion (8.33 (3.78 kg) lb of in-shell scallops = 1 lb (0.45 kg) of scallop meats). NMFS is making this adjustment to provide more uniformity among the possession limit measurements by revising the in-shell possession limit to a widely accepted poundage conversion, and by making other necessary clarifications. The revision to the in-shell possession limit is resource neutral because NMFS already uses this conversion to charge an LAGC vessel's IFQ and/or the NGOM Set-Aside. Furthermore, this change will continue to support the boutique in-shell scallop fishery by retaining an in-shell possession limit for this fleet. These revisions are consistent with section 305(d) of the Magnuson-Stevens Act, which provides authority to the Secretary of Commerce to promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. The first revisions at § 648.2 'bushel' definition, § 648.14(i)(2)(ii)(A) and (B), (iii)(B), (vi)(D), § 648.51(a), throughout § 648.52, and at § 648.59(b)(3)(i), change the in-shell possession limit of scallops from a bushel conversion to a lb conversion. The second revisions, at § 648.14(i)(1)(i), (ii), (iv)(A) and (B), would clarify that these paragraphs are referring to Federal scallop permits. The third revision at § 648.14(i)(1)(vi)(A)(2) would clarify that a vessel can transit Habitat Management Areas provided that its gear is stowed and not available for immediate use as defined in § 648.2. Finally, the fourth revision at § 648.52(d) would update a reference to Scallop Rotational Access Area allocations.

Classification

NMFS is issuing this rule pursuant to sections 304(b)(1)(A) of the Magnuson-Stevens Act, which provides specific authority for implementing this action. Pursuant to section 305(d) of the Magnuson-Stevens Act, this action is necessary to carry out the Atlantic Sea Scallop FMP, to allow NMFS to implement measures developed in

Framework Adjustment 36 to the Atlantic Sea Scallop FMP for fishing year 2023. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Sea Scallop FMP and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared for Framework 36, as required by section 603 of the RFA (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of this analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows:

Description of the Reasons Why Action by the Agency is Being Considered and Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for 2023, with 2024 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in the Council's Framework 36 document and the preamble of this proposed rule, and are not repeated here.

Description of Projected Reporting, Recordkeeping, and other Compliance Requirements of the Proposed Rule

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Federal Rules which may Duplicate, Overlap or Conflict with this Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other Federal laws.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed regulations would affect all vessels with Limited Access, LAGC IFQ, and LAGC NGOM scallop permits. Framework 36 (Section 5.6) and the LAGC IFQ Performance Evaluation (2017) provide extensive information on the number of vessels that would be affected by the proposed regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**). There were 315 vessels that held full-time limited access permits in FY2021, including 250 dredge, 54 small-dredge, and 11 scallop trawl permits. In the same year, there were also 29 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2021. In 2019, NMFS reported that there were a total of 300 IFQ only permits, with 212 issued and 88 in a Confirmation of Permit History (CPH). There were a total of 110 NGOM permits issued in 2019. About 114 of the IFQ vessels and 53 NGOM vessels actively fished for scallops in fishing year 2021. The remaining IFQ permits likely leased out scallop IFQ allocations with their permits in CPH.

For RFA purposes, NMFS defines a small business in a shellfish fishery as a firm that is independently owned and operated with receipts of less than \$11 million annually (see 50 CFR 200.2). Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example,

if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2021 permits and contains average gross sales associated with those permits for calendar years 2019 through 2021. Matching the potentially impacted 2021 fishing year permits described above (limited access and LAGC IFQ) to calendar year 2021 ownership data results in 147 distinct ownership entities for the limited access fleet and 87 distinct ownership entities for the LAGC IFQ fleet. Based on the Small Business Administration (SBA) guidelines, 139 of the limited access distinct ownership entities and 87 LAGC IFQ entities are categorized as small. Eight limited access and no LAGC IFQ entities are categorized as large business entities with annual fishing revenues over \$11 million in 2021. There were 52 distinct small business entities with NGOM permits in 2021.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The Council’s preferred alternative (Section 4.3.3.2) in Framework 36 (see **ADDRESSES**) would allocate each full limited access vessel 24 open area DAS and 2 access area trips (*i.e.*, 2 Area II trips at 12,000 lb (5,443 kg)) amounting to 24,000 lb (10,886 kg) in fishing year 2023. This is estimated to result in about 22.86 million lb (10.37 million kg) of landings after research and observer set asides are accounted for. The limited access share of 94.5 percent is around 21.6 million lb (9.8 million kg) (Table

12). The LAGC IFQ share (5.5 percent allocation for both IFQ only and limited access vessels with IFQ permits) will be about 1.257 million lb (0.570 million kg) (Section 4.4.2, Table 13). Total landings, including set-asides to support research and observer coverage is projected to be about 25.01 million lb (11.34 million kg) (Table 12).

The preferred alternative (Section 4.3.3.2) is expected to have negative impacts on the net revenues and profits of small entities regulated by this action in fishing year 2023 (Framework 36) compared to the fishing year 2022 (Framework 34) scenario. The decline in revenue per entity between fishing year 2022 levels and fishing year 2023 is a result of declining allocations between these two fishing years. Projected landings for limited access fleet are expected to decline by about 8.09 million lb (3.67 million kg) under the Framework 36 preferred alternative compared to the Framework 34 preferred alternative. As described in the Economic Impacts Section 6.6.1, and summarized in Tables 11 and 12, fleetwide net revenue for the limited access vessels (including revenue from the LAGC IFQ vessels) would be lower for the preferred alternative in Framework 36 (Section 4.3.2.2) by about \$82 million (in 2022 dollars) compared to the preferred alternative in Framework 34. Net revenue for limited access vessels in fishing year 2023 under the Framework 36 preferred alternative would be \$0.053 million lower per entity as compared to Framework 34 preferred alternative in fishing year 2022 (Table 12). Thus, the preferred alternative (Section 4.3.2.2) would have 2.43 percent lower net revenue compared to the Framework 34 preferred alternative.

Under the preferred alternative (Section 4.3.2.2), allocations for the LAGC IFQ fishery, including the limited access vessels with IFQ permits, will be about 27.2 percent lower than the allocation that was implemented for fishing year 2022 under Framework 34. In terms of net revenue, this difference is expected to be of similar magnitude and negative for the preferred alternative relative to fishing year 2022 levels. Therefore, the

Framework 36 preferred alternative will have negative economic impacts on the LAGC IFQ fishery compared to fishing year 2022 levels (Table 13).

The economic benefits of all of the alternatives considered in Framework 36, including the proposed alternative, would exceed economic benefits of No Action. The specification alternatives considered in Framework 36 are very similar, with each alternative allocating to the same access area allocations. Differences between the options are driven by the number of DAS allocated, which range from 22 to 24 DAS and trip limits range from 10,000 lb (4,536 kg) to 14,000 lb (6,350 kg). The Council's preferred alternative, Alternative 3, Option 2 (4.3.3.2) (see **ADDRESSES**) would result in a lower allocation to the limited access and LAGC IFQ components in 2023. This is expected to result in lower revenues compared to the Framework 34 preferred alternative in fishing year 2022. The percentage change in net revenue per business entity for all Framework 36 alternatives is expected to decline between -11.56 percent and 2.71 percent compared to the Framework 34 preferred alternative. Under the preferred alternative in Framework 36, net revenues per entity with limited access permits are estimated to be below fishing year 2022 levels by -2.43 percent in fishing year 2023 (Table 12).

The Council considered four NGOM TAL options for fishing year 2023 that ranged from 357,149 lb (162,000 kg) (Option 1) to 511,472 lb (232,000 kg) (Option 4). All TAL options would result in lower revenues compared to No Action except Option 4, which are default measures set in Framework 34. The preferred alternative (Alternative 2, Option 3) would have a slightly lower TAL (434,311 lb (197,000kg)) compared to the Alternative 2 Option 4, but higher revenues than Option 1 and Option 2. When compared to No Action, the lower TAL of Option 3 would also result in lower revenues and economic benefits for entities in this fishery with an estimated decrease in net revenues by about 15 percent compared to No Action (Table 14).

Under the sharing arrangement approved for the NGOM Management Area in Amendment 21, Framework 36 would not allocate pounds to the LAGC IFQ or limited access components for fishing year 2023 because the NGOM set-aside did not exceed 800,000 lb (362,874 kg). Therefore, Action 2 would not have direct impacts on the limited access component. More research is planned for this area in 2023, which will help to increase the understanding of biomass in the NGOM management area. This will lead to better management of the NGOM resource with positive biological and economic impacts over the long-term on both LAGC and limited access vessels.

Economic impacts of Framework 36 preferred alternatives, including fishery specifications, access area trip allocations for the limited access and LAGC IFQ fisheries, NGOM measures, and other measures to reduce fishery impacts are expected to be negative for the scallop vessels and small business entities compared to the fishing year 2022 baseline implemented through Framework 34. We have determined that the preferred alternative is nevertheless optimal because it would minimize risks associated with stock biomass uncertainties while protecting small scallops and minimizing bycatch of species such as yellowtail and windowpane flounder. Furthermore, the preferred alternative intentionally leaves biomass in the water to increase the likelihood that a similar DAS allocation and associated F rate, along with access area fishing in Area II trip will be available for the following fishing year.

Table 11 - Short-term Economic Impacts for FY2023 Compared with FY2022: Estimated Landings (mil. lb/mil. kg), Revenues, Producer Surplus and Total Economic Benefits (in 2001 constant dollars, Mil. dollars)

Alternatives/Runs	Framework 36 Alternatives								FW34's Preferred Alternative	FW34's Preferred Alternative
	Alt 1 NA	Alt2 Opt1	Alt2 Opt2	Alt3 Opt1	Alt3 Opt2 (Preferred)	Alt4 Opt1	Alt4 Opt2	Alt5 SQ		
Sections=>	4.3.1 NA	4.3.2.1 22d10k	4.3.2.2 24d10k	4.3.3.1 22d12k	4.3.3.2 24d12k	4.3.4.1 22d14k	4.3.4.2 24d14k	4.3.5 SQ	(in 2001\$)	(in 2021\$)
Economic Variables										
Landings mil lb	20.214	22.619	23.719	23.909	25.007	25.207	26.305	28.300	34.04	34.04
Landings mil kg	9.17	10.26	10.76	10.84	11.34	11.43	11.93	12.84	15.44	15.44
Revenue	\$211.76	\$234.05	\$243.91	\$246.22	\$255.98	\$258.36	\$268.02	\$286.25	\$303.95	437.37
Producer Surplus (PS)	\$157.55	\$175.18	\$182.93	\$186.10	\$193.75	\$196.90	\$204.46	\$220.04	\$244.10	351.25
Total Economic Benefits (CS+PS)	\$166.21	\$185.99	\$194.77	\$198.14	\$206.87	\$210.24	\$218.93	\$236.57	\$253.85	365.27
Net Values or Difference from FY2022 (FW34's Preferred Alternative projection) values:										
Landings mil lb	-13.83	-11.42	-10.32	-10.13	-9.03	-8.83	-7.73	-5.74	0.00	
Landings mil kg	-6.27	-5.18	-4.68	-4.59	-4.10	-4.01	-3.51	-2.60	0.00	
Revenue	-\$92.19	-\$69.90	-\$60.05	-\$57.73	-\$47.97	-\$45.59	-\$35.94	-\$17.70	\$0.00	
Producer Surplus (PS)	-\$86.56	-\$68.93	-\$61.17	-\$58.01	-\$50.35	-\$47.21	-\$39.65	-\$24.06	\$0.00	
Total Economic Benefits (CS+PS)	-\$87.63	-\$67.86	-\$59.08	-\$55.71	-\$46.98	-\$43.61	-\$34.92	-\$17.28	\$0.00	

Note: A negative sign indicates a lower value for a FW36 alternative compared to the FW34's preferred alternative.

Table 12 - Net Scallop Revenue for Limited Access Vessels in FY2023 and Percent Change from the FY2022 (revenues in 2022 dollars).

Alternatives/Runs	Unit	FW36 Alternatives (Economic Values in million dollars (in 2022\$))								FR34's Preferred Alternative
		Alt. 1	Alt. 2 Opt. 1	Alt. 2 Opt. 2	Alt. 3 Opt. 1	Alt. 3 Opt. 2 (Preferred)	Alt. 4 Opt. 1	Alt. 4 Opt. 2		(in 2022\$)
		4.3.1 NA	4.3.2.1 22d10k	4.3.2.2 24d10k	4.3.3.1 22d12k	4.3.3.2 24d12k	4.3.4.1 22d14k	4.3.4.2 24d14k		
Estimated scallop APL landings mil lbs	mil lb	20.214	22.619	23.720	23.909	25.007	25.208	26.306		34.039
	mil kg	9.17	10.26	10.76	10.84	11.34	11.43	11.93		15.44

Estimated LA scallop landings (94.5% net of set asides) mil lbs	mil lb	17.07	19.34	20.38	20.56	21.60	21.79	22.83	29.690
	mil kg	7.74	8.77	9.24	9.33	9.80	9.88	10.36	13.47
No. of Entities (Average in 2019-2021) both small and large	Counts	146	146	146	146	146	146	146	177
Estimated revenues for scallop APL \$mil	mil dollars	\$329.77	\$364.48	\$379.83	\$383.44	\$398.63	\$402.34	\$417.38	\$476.51
Estimated LA revenues from scallop \$ mil	mil dollars	\$278.50	\$311.71	\$326.42	\$329.78	\$344.33	\$347.79	\$362.20	\$415.63
Estimated Net Revenue for scallop APL \$mil	mil dollars	\$301.733	\$331.499	\$344.615	\$349.126	\$362.089	\$366.606	\$379.420	\$444.55
Estimated LA net revenue from scallop \$mil	mil dollars	\$254.82	\$283.50	\$296.15	\$300.27	\$312.77	\$316.90	\$329.26	\$387.75
Net scallop revenue per Entity \$mil	mil dollars	\$1.741	\$1.937	\$2.024	\$2.052	\$2.137	\$2.166	\$2.250	\$2.191
% change in net revenue compared to SQ (fw34 pref alt)	Percent	-20.51%	-11.56%	-7.61%	-6.33%	-2.43%	-1.14%	2.71%	0.00%

Note: landings and net revenues net of set asides, such as research set aside scallop, etc.

Table 13 - Impacts of the LAGC IFQ Allocation for the Fishing Year 2022

FW36 Alternatives	Framework 36 Alternatives							
Sections	4.3.1	4.3.2.1	4.3.2.2	4.3.3.1	4.3.3.2 (Preferred)	4.3.4.1	4.3.4.2	FW34's Preferred Alternative
Descriptions								
Allocation for IFQ only vessels (5%) (lb)	903,247	1,023,509	1,078,515	1,087,994	1,142,890	1,152,921	1,207,816	1,570,904
Allocation for IFQ only vessels (5%) (kg)	409,706	464,255	489,206	493,505	518,406	522,956	547,856	712,549
Allocation for LA vessels with IFQ permits (0.5%) (lb)	90,325	102,351	107,851	108,799	114,289	115,292	120,782	157,090
Allocation for LA vessels with IFQ permits (0.5%) (kg)	40,971	46,426	48,920	49,350	51,841	52,296	54,786	71,255
Total Allocation* for IFQ fishery (5.5%) (lb)	993,572	1,125,860	1,186,366	1,196,794	1,257,179	1,268,213	1,328,597	1,727,994
Total Allocation* for IFQ fishery (5.5%) (kg)	450,676	510,681	538,126	542,856	570,246	575,251	602,641	783,804
% Change in estimated landings (and revenue) per business entity from SQ (FW34 Pref Alt)	-42.5%	-34.8%	-31.3%	-30.7%	-27.2%	-26.6%	-23.1%	0.0%

*APL with set aside removed

Table 14 - Impacts of the Preferred Alternative 2 Option 3 and Other Alternatives for NGOM Scallop Fishery (2023 Fishing Year and Monetary Values in 2022 Dollars).

Data and Values		FY2023					
		Alternative 1 (No Action)	Alternative 2				
			Option 1	Option 2	Option 3	Option 4	
					Preferred		
			F=0.15	F=0.18	F=0.15	F=0.18	
LA/RSA share - scallop lbs.	lb		25,000	25,000	25,000	25,000	
	kg		11,340	11,340	11,340	11,340	
1% NGOM ABC for Observers	lb		10,538	10,538	10,538	10,538	
	kg		4,780	4,780	4,780	4,780	

LAGC share - scallop lbs.	lb	448,062	303,693	367,627	380,855	458,016	
	kg	203,237	137,753	166,753	172,753	207,752	
Total Pounds w/ RSA, observers, etc.	lb		357,149	421,083	434,311	511,472	
	kg		162,000	191,000	197,000	232,000	
Impacts on the LAGC NGOM share—scallop lbs.:	Alternative 1 (No Action)	Option 1	Option 2	Option 3	Option 4		
· Estimated LAGC revenue	\$6,953,922	\$4,713,315	\$5,705,571	\$5,910,870	\$7,108,408		
· DAS	2,240	1,518	1,838	1,904	2,290		
· Trip costs (\$1,000 per DAS)	\$2,240,310	\$1,518,465	\$1,838,135	\$1,904,275	\$2,290,080		
· Net revenue	\$4,713,612	\$3,194,850	\$3,867,436	\$4,006,595	\$4,818,328		
· Net revenue net of No Action	\$0	(\$1,518,762)	(\$846,176)	(\$707,018)	\$104,716		
Net revenue net of No Action %	0.00%	-32.2%	-18.0%	-15.0%	2.2%		

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 16, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

2. In § 648.2, revise the definition “bushel” to read as follows:

§ 648.2 Definitions.

* * * * *

Bushel (bu) means a standard unit of volumetric measurement deemed to hold 1.88 ft³ (53.24 L) of surfclams or ocean quahogs in shell.

* * * * *

3. In § 648.14, revise paragraphs (i)(1)(i) and (ii), (i)(1)(iv)(A) and (B), (i)(1)(vi)(A)(2), (i)(2)(ii)(A), (i)(2)(ii)(B), and paragraphs (i)(2)(iii)(B), (i)(2)(vi)(B) and (D), and (i)(3)(v)(E) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(1) * * *

(i) *Permit requirement.* Fish for, possess, or land scallops without the vessel having been issued and carrying onboard a valid Federal scallop permit in accordance with § 648.4(a)(2), unless the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

(ii) *Gear and crew requirements.* Have a shucking or sorting machine on board a vessel while in possession of more than 600 lb (272.2 kg) of shucked scallops, unless that vessel has not been issued a Federal scallop permit and fishes exclusively in state waters.

(iv) * * *

(A) Land, offload, remove, or otherwise transfer; or attempt to land, offload, remove or otherwise transfer; scallops from one vessel to another, unless that vessel has not been issued a Federal scallop permit and fishes exclusively in state waters.

(B) Sell, barter, or trade, or otherwise transfer scallops from a vessel; or attempt to sell, barter or trade, or otherwise transfer scallops from a vessel; for a commercial purpose, unless the vessel has been issued a valid Federal scallop permit pursuant to § 648.4(a)(2), or the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

* * * * *

(vi) * * *

(A) * * *

(2) Transit or enter the Habitat Management Areas specified in § 648.370, except as provided by § 648.370(i).

* * * * *

(2) * * *

(ii) * * *

(A) Possess more than 40 lb (18.1 kg) of shucked, or 333 lb (151 kg) of in-shell scallops, or participate in the scallop DAS or Area Access programs, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 648.51(a)(1), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

(B) While under or subject to the DAS allocation program, in possession of more than 40 lb (18.1 kg) of shucked scallops or 333 lb (151 kg) of in-shell scallops, or fishing for scallops in the EEZ:

* * * * *

(iii) * * *

(B) Fish for, possess, or land more than 3,332 lb (1,511 kg) of in-shell scallops inside the VMS Demarcation Line on or by a vessel, except as provided in the state waters exemption, as specified in § 648.54.

* * * * *

(vi) * * *

(B) Transit the Area II Scallop Rotational Area or the New York Bight Scallop Rotational Area, as defined in § 648.60(b) and (j), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(C) * * *

(D) Possess more than 3,332 lb (1,511 kg) of in-shell scallops outside the boundaries of a Scallop Access Area by a vessel that is declared into the Scallop Access Area Program as specified in § 648.59.

* * * * *

(3) * * *

(v) * * *

(E) Transit the Area II Scallop Rotational Area or New York Bight Scallop Rotational Area, as defined in § 648.60(b) and (j), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

4. In § 648.51, revise paragraphs (a) introductory text and (f)(1) to read as follows:

§ 648.51 Gear and crew restrictions

(a) *Trawl vessel gear restrictions.* Trawl vessels issued a limited access scallop permit under § 648.4(a)(2) while fishing under or subject to the DAS allocation program for scallops and authorized to fish with or possess on board trawl nets pursuant to § 648.51(f), any trawl vessels in possession of more than 40 lb (18.14 kg) of shucked, or 333 lb (151 kg) of in-shell scallops in or from the EEZ, and any trawl vessels fishing for scallops in the EEZ, must comply with the following:

* * * * *

(f) * * *

(1) *Restrictions.* A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation program may not fish with, possess on board, or land scallops while in possession of a trawl net, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with a trawl net. A limited access scallop vessel issued a trawl vessel permit that endorses the vessel to fish for scallops with a trawl net and general category scallop vessels enrolled in the Area Access Program as specified in § 648.59, may not fish for scallops with a trawl net in the Area II Rotational Area specified in § 648.60(b).

* * * * *

5. In § 648.52, revise paragraphs (a) through (f) to read as follows:

§ 648.52 Possession and landing limits.

(a) *IFQ trips*—(1) *Open area trips*. A vessel issued an IFQ scallop permit that is declared into the IFQ scallop fishery in the open area, as specified in § 648.10(f), or on a properly declared NE multispecies, surfclam, or ocean quahog trip (or other fishery requiring a VMS declaration) and not fishing in a scallop access area, unless as specified in paragraph (g) of this section or exempted under the state waters exemption program described in § 648.54, may not possess or land, per trip, more than 600 lb (272 kg) of shucked scallops, or possess more than 4,998 lb (2,267 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 6,664 lb (3,023 kg) of in-shell scallops seaward of the VMS Demarcation Line on a properly declared IFQ scallop trip, or on a properly declared NE multispecies, surfclam, or ocean quahog trip, or other fishery requiring a VMS declaration, and not fishing in a scallop access area.

(2) *Access areas trips*. A vessel issued an IFQ scallop permit that is declared into the IFQ Scallop Access Area Program, as specified in § 648.10(f), may not possess or land, per trip, more than 800 lb (363 kg) of shucked scallops, or possess more than 6,664 lb (3,023 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 6,664 lb (3,023 kg) of in-shell scallops seaward of the VMS Demarcation Line on a properly declared IFQ scallop access area trip.

(b) *NGOM trips*. A vessel issued an NGOM scallop permit, or an IFQ scallop permit that is declared into the NGOM scallop fishery and fishing against the NGOM Set-Aside as described in § 648.62, unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 200 lb

(90.7 kg) of shucked scallops, or possess more than 1,666 lb (756) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 3,332 lb (1,511 kg) of in-shell scallops seaward of the VMS demarcation line on a properly declared NGOM scallop fishery trip.

(c) *Incidental trips.* A vessel issued an Incidental scallop permit, or an IFQ scallop permit that is not declared into the IFQ scallop fishery or on a properly declared NE multispecies, surfclam, or ocean quahog trip or other fishery requiring a VMS declaration as required under § 648.10(f), unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 40 lb (18.1 kg) of shucked scallops, or possess more than 333 lb (151 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 666 lb (302 kg) of in-shell scallops seaward of the VMS Demarcation Line.

(d) *Limited access vessel access area trips.* Owners or operators of vessels with a limited access scallop permit that have properly declared into the Scallop Access Area Program as described in § 648.59 are prohibited from fishing for or landing per trip, or possessing at any time, scallops in excess of any sea scallop possession and landing limit set by the Regional Administrator in accordance with § 648.59(b)(3).

(e) *Limited access vessel open area in-shell scallop possession limit.* Owners or operators of vessels issued limited access permits are prohibited from fishing for, possessing, or landing per trip more than 3,332 lb (1,511 kg) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(f) *Limited access vessel access area in-shell scallop possession limit.* A limited access vessel that is declared into the Scallop Area Access Program as described in §

648.59, may not possess more than 3,332 lb (1,511 kg) of in-shell scallops outside of the Access Areas described in § 648.60.

* * * * *

6. In § 648.53, revise paragraphs (a)(9) and (b)(3) to read as follows:

§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).

(a) * * *

(9) *Scallop fishery catch limits.* The following catch limits will be effective for the 2023 and 2024 fishing years:

Table 2 to Paragraph (a)(9) - Scallop Fishery Catch Limits

Catch limits	2023 (mt)	2024 (mt) ¹
OFL	27,504	29,151
ABC/ACL (discards removed)	19,828	20,206
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	198	202
NGOM Set-Aside	175	130
ACL for fishery	18,853	19,403
Limited Access ACL	17,816	18,335
LAGC Total ACL	1,037	1,067
LAGC IFQ ACL (5 percent of ACL)	943	970
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	94	97
Limited Access ACT	15,441	15,891
APL (after set-asides removed)	10,368	(1)
Limited Access APL (94.5 percent of APL)	9,798	(1)
Total IFQ Annual Allocation (5.5 percent of APL) ²	570	428
LAGC IFQ Annual Allocation (5 percent of APL) ²	518	389
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	52	39

¹ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys. The 2024 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

² As specified in paragraph (a)(6)(iii)(B) of this section, the 2024 IFQ annual allocations are set at 75 percent of the 2023 IFQ Annual Allocations.

(b) * * *

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2023 and 2024 are as follows:

Table 3 to Paragraph (b)(3) - Scallop Open Area DAS Allocations

Permit category	2023	2024 ¹
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

¹ The DAS allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. The 2024 DAS allocations are set at 75 percent of the 2023 allocation as a precautionary measure.

* * * * *

7. In § 648.59, revise paragraphs (a)(2) and (3), (b)(3)(i), (b)(6)(ii), (c), (e)(1) and (2), (g)(1), (g)(3)(v), and (g)(4)(ii) to read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area

Program requirements.

(a) * * *

(2) *Transiting a Scallop Rotational Closed Area.* No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in § 648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the New York Bight Scallop Rotational Area, as defined in § 648.60(j), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Transiting a Scallop Rotational Access Area.* Any sea scallop vessel that has not declared a trip into the Scallop Access Area Program may enter a Scallop Access

Area, and possess scallops not caught in the Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2. Any scallop vessel that has declared a trip into the Scallop Area Access Program may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area provided its gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Area II Scallop Rotational Area, as defined in § 648.60(b), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

(b) * * *

(3) * * *

(i) *Limited access vessel allocations and possession limits.*

(A) Except as provided in paragraph (c) of this section, the specifications or framework adjustment processes defined in § 648.55 determine the total amount of scallops, in weight, that a limited access scallop vessel may harvest from Scallop Access Areas during applicable seasons specified in § 648.60. A vessel may not possess or land in excess of its scallop allocation assigned to specific Scallop Access Areas, unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, unless the vessel owner has exchanged an area-specific scallop allocation with another vessel owner for additional scallop allocation in that area, as specified in paragraph (b)(3)(ii) of this section. A vessel may harvest its scallop allocation on any number of trips in a given fishing year, provided that no single trip exceeds the possession limits specified in the specifications or framework adjustment processes defined in § 648.55, unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of

this section. No vessel declared into the Scallop Access Areas may possess more than 3,332 lb (1,511 kg) of in-shell scallops outside of the Scallop Rotational Area boundaries defined in § 648.60.

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2023 and 2024 fishing years:

(1) *Full-time vessels.*

(i) For a full-time limited access vessel, the possession limit and allocations are:

Table 1 to Paragraph (b)(3)(i)(B)(1)(i)

Rotational access area	Scallop possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	12,000 lb (5,443 kg) per trip	24,000 lb (10,886 kg)	0 lb (0 kg)
Total		24,000 lb (10,886 kg)	0 lb (0 kg)

(ii) [Reserved]

(2) *Part-time vessels.*

(i) For a part-time limited access vessel, the possession limit and allocations are as follows:

Table 2 to Paragraph (b)(3)(i)(B)(2)(i)

Rotational access area	Scallop possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	9,600 lb (4,082 kg) per trip	9,600 lb (4,354 kg)	0 lb (0 kg)
Total		9,600 lb (4,354 kg)	0 lb (0 kg)

(ii) [Reserved]

(3) *Occasional limited access vessels.*

(i) For the 2023 fishing year only, an occasional limited access vessel is allocated 2,000 lb (907 kg) of scallops with a trip possession limit at 2,000 lb of scallops per trip

(907 kg per trip). Occasional limited access vessels may harvest the 2,000 lb (907 kg) allocation from Area II Access Area.

(ii) For the 2024 fishing year, occasional limited access vessels are not allocated scallops in any rotational access area.

* * * * *

(6) * * *

(ii) Vessels fishing in the Area II Scallop Rotational Area defined in § 648.60(b) are prohibited from fishing with trawl gear as specified in § 648.51(f)(1).

* * * * *

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Closed Area II Access Area at the end of fishing year 2022, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Closed Area II Access Area is open in fishing year 2023 (April 1, 2023 through May 30, 2023).

* * * * *

(e) * * *

(1) 2023: Nantucket Lightship-North Scallop Rotational Area only for LAGC IFQ vessels during the first 90 days of fishing year 2023.

(i) through (ii) [Reserved]

(2) 2024: No access areas.

* * * * *

(g) * * *

(1) An LAGC scallop vessel may only fish in the scallop rotational areas specified in § 648.60 or in paragraph (g)(3)(iv) of this section, subject to any additional restrictions specified in § 648.60, subject to the possession limit and access area schedule specified in the specifications or framework adjustment processes defined in § 648.55, provided the vessel complies with the requirements specified in paragraphs (b)(1), (2), and (6) through (9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Area II and Nantucket Lightship North Scallop Rotational Area specified in § 648.60, when open, provided the vessel complies with the requirements specified in § 648.59 and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

* * * * *

(3) * * *

(v) *LAGC IFQ access area allocations*. The following LAGC IFQ access area trip allocations will be effective for the 2023 and 2024 fishing years:

Table 3 to Paragraph (g)(3)(v)

Scallop access area	2023	2024 ¹
Nantucket Lightship-North/Area II	571	0
Total	571	0

¹ The LAGC IFQ access area trip allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

(4) * * *

(ii) *Other species*. Unless issued an LAGC IFQ scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Area II Rotational Area specified in § 648.60, and the Nantucket Lightship

North Scallop Access Area specified in paragraph (g)(3)(iv) of this section is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i). Such a vessel may fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, provided that it has not declared into the Scallop Access Area Program. Such a vessel is prohibited from fishing for, possessing, or landing scallops.

* * * * *

8. In § 648.60,

- a. Revise paragraphs (b) and (c);
- b. Remove and reserve paragraphs (d) and (e);
- c. Revise paragraph (g);
- d. Remove and reserve paragraph (h);
- e. Revise paragraphs (i) and (j); and
- f. Add paragraph (k).

The revisions and additions read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(b) *Area II Scallop Rotational Area -*

(1) *Area II Scallop Rotational Area boundary.* The Area II Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 1 to Paragraph (b)(1)

Point	N latitude	W longitude	Note
AII1	41°30'	67°20'	
AII2	41°30'	(¹)	(²)
AII3	40°40'	(³)	(²)

AII4	40°40'	67°20'	
AII1	41°30'	67°20'	

¹ The intersection of 41°30' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N lat., 66°34.73' W long.

² From Point AII2 connected to Point AII3 along the U.S.-Canada Maritime Boundary.

³ The intersection of 40°40' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N lat. and 65°52.61' W long.

(2) *Season.* (i) A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Area II Scallop Rotational Area, defined in paragraph (b)(1) of this section, during the period of August 15 through November 15 of each year the Area II Access Area is open to scallop vessels, unless transiting pursuant to § 648.59(a).

(ii) [Reserved]

(c) Area I Scallop Rotational Area. The Area I Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 2 to Paragraph (c)

Point	N latitude	W longitude
AIA1	41°30'	68°30'
AIA2	40°58'	68°30'
AIA3	40°54.95'	68°53.37'
AIA4	41°30'	69°23'
AIA1	41°30'	68°30'

(d) through (e) [Reserved]

* * * * *

(g) *Nantucket Lightship-North Scallop Rotational Area.* (1) *Boundaries.* The Nantucket Lightship North Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 3 to Paragraph (g)(1)

Point	N latitude	W longitude
NLSN1	40°50'	69°30'
NLSN2	40°50'	69°00'
NLSN3	40°28'	69°00'
NLSN4	40°28'	69°30'
NLSN1	40°50'	69°30'

(2) *Season.* (i) For the 2023 fishing year, a limited access vessel may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship North Scallop Rotational Area, defined in paragraph (g)(1) of this section, during the period of April 1 through June 29, unless transiting pursuant to § 648.59(a). On June 30, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for limited access vessels.

(ii) For the 2023 fishing year, upon a determination from the Regional Administrator that the total number of LAGC IFQ access area trips have been or are projected to be taken, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for LAGC IFQ vessels.

(h) [Reserved]

(i) *Nantucket Lightship-West Scallop Rotational Area.* The Nantucket Lightship-West Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 4 to Paragraph (i)

Point	N latitude	W longitude
NLSW1	40°43.44'	70°20'
NLSW2	40°43.44'	70°00'
NLSW3	40°43.44'	69°30'
NLSW4	40°20'	69°30'
NLSW5	40°20'	70°00'
NLSW6	40°26.63'	70°20'

Point	N latitude	W longitude
NLSW1	40°43.44'	70°20'

(j) *New York Bight Scallop Rotational Area*. The New York Bight Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 5 to Paragraph (j)

Point	N latitude	W longitude
NYB1	40°00'	73°20'
NYB2	40°00'	72°30'
NYB3	39°20'	72°30'
NYB4	39°20'	73°20'
NYB1	40°00'	73°20'

(k) *Elephant Trunk Scallop Rotational Area*. The Elephant Trunk Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 6 to Paragraph (k)

Point	N latitude	W longitude
ET1	38°50'	74°20'
ET2	38°50'	73°30'
ET3	38°10'	73°30'
ET4	38°10'	74°20'
ET1	38°50'	74°20'

9. In § 648.62, revise paragraph (b)(1) to read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) Management Program.

(b) * * *

(1) The following landings limits will be effective for the NGOM for the 2023 and 2024 fishing years.

Table 1 to Paragraph (b)(1)

Landings limits	2023	2024¹
NGOM TAL	434,311 lb (197,000 kg)	318,573 (114,502 kg) ⁽³⁾ .
1 percent NGOM ABC for Observers	10,538 lb (4,780 kg)	7,932 (3,598 kg) ⁽³⁾ .
RSA Contribution	25,000 lb (11,340 kg)	25,000 lb (11,340 kg).
NGOM Set-Aside ²	380,855 lb (172,753 kg)	285,641 lb (129,565 kg).
NGOM APL	0 lb (0 kg)	0 lb (0 kg)

¹ The landings limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

² For fishing year 2023 the NGOM Set-Aside has been reduced by 17,918 lb (8,127 kg) to account for a limited access general category NGOM total allowable catch overage in 2021.

³ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

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